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November 15, 2005

James R. Schell, C.M.S., GIS Supervisor
Stark County Auditor's Office
110 Central Plaza South
Suite 230
Canton, Ohio 44702

Re: **Street Dedication Plat**
Our File No. M101.00271

Dear Mr. Schell:

I have before me your e-mail letter of October 14, 2005 in which you have requested our advice on the subject of assignment of ownership for tax purposes of roads offered for dedication to the public on dedication or subdivision plats. The question arises because the past practice of your office has been to delete from any tax rolls all lands so dedicated.

Your inquiry seeks our advice on the following questions:

1. Does a political subdivision (City, Township, Village or County) that approves a subdivision plat with a street dedication or street dedication plat, accept the transfer of the land occupied by the street shown on said plat?
2. Is the recording of the plat sufficient grounds for the Auditor's office to place said land in the name of the municipality within the tax roll?
3. Once a parcel, and subsequent tax parcel number and tax bill is created, what are the correct procedures for the Auditor's office or political subdivision to move this land into the tax exempt program?

Our answers, set out below, will be confined to the scope of the questions you have posed.

1. Does a political subdivision . . . accept the transfer of the land occupied by the street shown on said plat?

Generally, for roadways dedicated to the public, yes. Note, however, that townships are not involved in the act of acceptance of dedications. Dedications are accepted either by municipalities or the board of county commissioners. Municipalities are charged with the act of acceptance in their jurisdiction of

roadways dedicated to public use. In the unincorporated territory of the county, acceptance falls to the board of county commissioners. It is important to remember that the acts of dedication and acceptance are different. A dedication is made by the proprietor of the land being dedicated. Acceptance is done by an affirmative act of the government accepting the road, usually by resolution or ordinance. (There also may be acts which, though informal, constitute acceptance sufficient for a roadway to be public. Where a dispute on that subject occurs, those issues are decided by the courts on a case-by-case basis. In the absence of a resolution or ordinance accepting a public road, you should not assume that a road dedicated to the public by means of a plat has been accepted.) In the county, such resolutions need not be recorded with the county recorder. Typically, the resolution is filed with the county engineer with instructions to put the same on the road record. The resolution also typically turns the dedicated road over to the township for maintenance.

2. Is the recording of the plat sufficient grounds for the Auditor's office to place said land in the name of the municipality within the tax roll?

No. For the reasons stated above, the roadway dedicated to the public is neither the responsibility nor the property of the municipality (or the county) until it is accepted. Until such time as acceptance is manifested by resolution or ordinance, the property should continue to be listed in the name of the proprietor(s) making the dedication.

3. Once a parcel, and subsequent tax parcel number and tax bill is created, what are the correct procedures for the Auditor's office or political subdivision to move this land into the tax exempt program?

After a thorough search of the Revised Code, we find no special procedure for listing or exempting lands platted as roadways. Based on R.C. § 5709.08, it appears to us that roadways dedicated to public use and which become the property of the government are entitled to tax exemption since, "Real or personal property belonging to the state or United States used exclusively for a public purpose, and public property used exclusively for a public purpose, shall be exempt from taxation." That being the case, the normal processes as prescribed by the statutes and the tax commissioner should be utilized. Another aspect of the listing issue is that typical appraisal practice, upon acceptance of the roadway by the government, would result in a valuation of \$0.00.

I trust that this answers your questions. If I may be of further service, please do not hesitate to write or call.

Very truly yours,



David M. Bridenstine
Assistant Prosecuting Attorney